

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

04 10156 RWZ

2004 JAN 23 P 2:01  
CIVIL ACTION NO.

PHILLIP KING  
Plaintiff

v.

CITY OF BOSTON  
Defendant

U.S. DISTRICT COURT  
DISTRICT OF MASS

MAGISTRATE JUDGE

*Dein*

53352

AMOUNT \$ 150  
SUMMONS ISSUED N/A  
LOCAL RULE 4.1  
WAIVER FORM  
MCF ISSUED

FOW  
1-23-04

**NOTICE OF REMOVAL**  
(Pursuant to 28 U.S.C. §1441)

The Defendant City of Boston petitions, pursuant to 28 U.S.C. §1441, for removal from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts the action entitled *Phillip King v. City of Boston*, currently pending in Suffolk County as Civil Action No. 03-5562D.

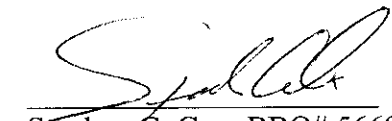
1. This action alleges that on October 30, 2003, following correspondence between the Plaintiff and the Defendant, Defendant City of Boston refused to provide Plaintiff with an absentee ballot. Among the Plaintiff's Claims for relief, he alleges that he is entitled to declaratory relief. The Plaintiff alleges that Defendant's refusal to provide an absentee ballot was a violation of the ex post facto clause, Bills of Attainder and the due process clause;
2. The Plaintiff's Complaint also contains a Count alleging entitlement to compensatory and punitive damages, costs, and expenses. The Plaintiff alleges that Defendant's actions were a violation of U.S.C.A. Art. 1, §10, cl. 1; the prohibition on Bills of Attainder, U.S.C.A. Art. 1, §§9-10, and

due process. This action clearly “arises under the Constitution treaties or laws of the United States” and is therefore removable under 28 U.S.C. §1441;

3. A fair reading of the facts and theories as a whole make it apparent that federal constitutional law and issues are an essential part of the case and therefore, the Defendant has the statutory right to remove this action;
4. This Notice of Removal is being filed within thirty (30) days of service upon the Defendant.

WHEREFORE, Defendant petitions that this action be removed.

Respectfully submitted,  
DEFENDANT, CITY OF BOSTON  
By its attorneys,

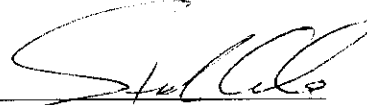


Stephen G. Cox BBO# 566943  
Wendy S. Plotkin, BBO #647716  
Assistant Corporation Counsel  
City of Boston Law Department  
Room 615, Boston City Hall  
Boston, Massachusetts 02201  
(617) 635-4064

**VERIFICATION**

I, Stephen G. Cox , hereby swear under the pains and penalties of perjury that the statements of fact in the petition are true and correct to the best of my knowledge, information and belief.

Respectfully submitted,  
DEFENDANT, CITY OF BOSTON  
Merita A. Hopkins  
Corporation Counsel  
By its attorneys,

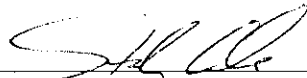


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Assistant Corporation Counsel  
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**CERTIFICATE OF SERVICE**

I, Stephen G. Cox , hereby certify that on this date I served a copy of the foregoing documents upon the following by facsimile and mail to Phillip King, W-61064, MCI Shirley Medium, Shirley, MA 01464.

1/23/04  
Date

  
Stephen G. Cox